



April 21, 2021

The Honorable Kim Koppelman  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, ND

Re: House Bill 1298

Dear Speaker Koppelman:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1298 and return it to the House.

North Dakota today has a level playing field and fairness in girls' sports. House Bill 1298 purports that this long fairness is in immediate danger. There is no evidence to suggest this is true.

North Dakota has fairness in girls' and boys' sports in large part because of the caring and thoughtful leadership of the North Dakota High School Activities Association (NDHSAA) Board and its members. We have every confidence they will continue to ensure a level playing field for the more than 27,000 students who participate in North Dakota high school sports.

To date there has not been a single recorded incident of a transgender girl attempting to play on a North Dakota girls' team. Further, the NDHSAA already has regulations in place for participation in sex-separated interscholastic contests by transgender students. These regulations require transgender girls to undergo testosterone suppression treatment for gender transition for a full calendar year before they are eligible to compete in girls' sports.

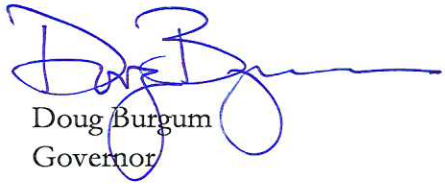
This bill's proposed blanket prohibitions do not extend to students attending tribal or privately funded schools, thereby creating the potential for an unlevel playing field.

The most responsive sports governance is the organization closest to the teams and athletes they govern. If a question should arise related to a transgender student and athletic competition, the NDHSAA, parents, child, their health care provider, their school and their coaches are in the best position to manage that unique situation, especially given the child's right to privacy.

This bill would unnecessarily inject the state into a local issue by creating a ban with myriad unforeseen consequences.

For the reasons stated above, House Bill 1298 is vetoed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Burgum", with a long horizontal flourish extending to the right.

Doug Burgum  
Governor

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1298

(Representatives B. Koppelman, Meier, Paulson, Schauer, Skroch, Steiner, Vetter)  
(Senators Clemens, Kannianen, Myrdal)

AN ACT to create and enact a new section to chapter 14-02.4 of the North Dakota Century Code, relating to participation in athletic events exclusively for males or females; and to provide for a legislative management study.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**


**SECTION 1.** A new section to chapter 14-02.4 of the North Dakota Century Code is created and enacted as follows:

**Athletic events exclusively for males or exclusively for females.**

1. A public elementary or secondary school may not knowingly allow an individual of the opposite sex who is enrolled in a public elementary or secondary school to participate on a school-sponsored athletic team that is exclusively for females or exclusively for males.
2. For purposes of this section, sex means an individual's biological sex and is based solely on an individual's reproductive biology and genetics at birth.
3. This section may not be construed to prohibit a female from participating in a school-sponsored athletic team or event that is exclusively for males.

**SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STUDENT ATHLETIC EVENTS.** During the 2021-22 interim, the legislative management shall consider studying student athletic events that are exclusively for males or exclusively for females and the impact of a policy that prohibits participation in those events by individuals who are of the opposite sex. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1298.

House Vote:      Yeas 69              Nays 25              Absent 0

Senate Vote:      Yeas 27              Nays 20              Absent 0

  
Chief Clerk of the House

Received by the Governor at 9:25 A.M. on April 20, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this 27<sup>th</sup> day of April, 2021,  
at 3:43 o'clock P. M.

  
Secretary of State



Honorable Al Jaeger  
Secretary of State  
Bismarck, North Dakota

I certify this Act, House Bill No. 1298, together with the objections of Governor Burgum, was returned to the House, being the body in which it originated, on April 22, 2021; that the objections of the Governor were read at length on April 22, 2021, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 22, 2021, at 12:41 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	68
	Nays	25
	Absent and not voting	1

  
Speaker of the House

  
Chief Clerk of the House

Honorable Al Jaeger  
Secretary of State  
Bismarck, North Dakota

I certify this Act, House Bill No. 1298, together with the objections of Governor Burgum, was received from the House, being the body in which it originated, on April 22, 2021; that the objections of the Governor were read at length on April 22, 2021, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration failed on April 22, 2021, at 5:19 p.m.; and the roll was called and the Bill failed to pass, with less than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	28
	Nays	19
	Absent and not voting	0

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Secretary of the Senate